IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

Crl.MC.No. 3058 of 2007()

CC.192/2005 of CHIEF JUDICIAL MAGISTRATE COURT, PATHANAMTHITTA
CRIME NO.586/05 OF PATHANAMTHITTA POLICE STATION

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PETITIONER: ACCUSED NO.1 TO 14

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1. JINU JANARDHAN, S/O. JANARDHAN,
   NEDUMPAZHOOR MELATHIL VEETTIL, VALLIKODE VILLAGE,
   VIALA VADAKKEKARA, NARIYAPURAM, PATHANAMTHITTA.

2. JANARDHAN, S/O. GOPALAN,
   -DO- -DO-

3. OMANA, W/O. JANARDHAN,
   -DO- -DO-

4. JIJI, W/O. ANILKUMAR,
   KALLUMKOTTATHIL HOUSE, VARYAPURAM,
   PATHANAMTHITTA.

BY ADV. SRI.S.MUHAMMED HANEEFF

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REP. BY
   SUB INSPECTOR OF POLICE, PATHANAMTHITTA POLICE STATION, (CRIME NO.586 OF 2005 OF PATHANAMTHITTA POLICE STATION), REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. BEENARANI, D/O. K.BABU,
   CHOTHIYIL VEETTIL, KOTHETHU NAGAR 123,
   ULLIYAKOVIL, KOLLAM P.O.

BY ADV. SRI.V.P.REGHURAJ
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3058 of 2007

Dated this the 4th day of October 2007

O R D E R

The petitioners face indictment in a prosecution under Section 498A I.P.C. The crux of the allegations against them is that they were guilty of matrimonial cruelty of the culpable variety against the second respondent herein, who is the wife of the first petitioner. The other petitioners are relatives of the first petitioner. Investigation is complete. Final report was filed. Cognizance was taken on the basis of the final report. The case is pending before the learned Magistrate.

2. The petitioners and the second respondent have come together before this court. They submit that the dispute between them have been settled amicably. They have decided to separate in peace and all the outstanding disputes have been settled. The second respondent has settled the dispute and compounded the offence under Section 498A I.P.C allegedly committed by the petitioners against her. In these circumstances, the petitioners and the second respondent make a joint request before this court that the proceedings initiated

against the petitioners may be quashed. The second respondent has entered appearance through counsel. An affidavit of the second respondent has been filed to confirm the settlement and composition. The learned counsel for the second respondent also vouches for the settlement and the composition effected by the second respondent.

3. I am satisfied from the materials available and the submissions made at the Bar that the second respondent has settled and compounded the offences allegedly committed by the petitioners. I am, in these circumstances, satisfied that the settlement and composition can be accepted if the same be legally permissible. But the offence under Section 498A I.P.C is not legally compoundable. The learned counsel for the contestants, in these circumstances, rightly rely on the decision of the Supreme Court in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the interests of justice may, at times, transcend the interests of mere law and in such circumstances, the stipulations of Section 320 Cr.P.C cannot be held to fetter the sweep, width and amplitude of the extraordinary inherent jurisdiction under Section 482

Cr.P.C. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C, as explained in the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can and ought to be invoked and proceedings initiated against the petitioners by the second respondent brought to premature termination.

4. In the result this petition is allowed. C.C.No.192/05 pending before the learned Chief Judicial Magistrate, Pathanamthitta is hereby quashed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007